

ship their image. It was accordingly done, in every instance, without asking what the offenders had done, or against whom they had offended, but whether the pains they were suffering were inflicted under the pretended sedition law. (To Mrs. John Adams, 1804. F. VIII, 308.)

SEDITION LAW.—You seem to think it developed on the judge to decide on the validity of the sedition law. But nothing in the Constitution has given them a right to decide for the Executive, more than to the Executive to decide for them. Both magistracies are equally independent in the sphere of action assigned to them. The judges, believing the law constitutional, had a right to pass a sentence of fine and imprisonment; because the power was placed in their hands by the Constitution. But the Executive believing the law to be unconstitutional was bound to remit the execution of it; because that power has been confined to him by the Constitution. That instrument meant that its co-ordinate branches should be checks on each other. But the opinion which gives the judges the right to decide what laws are constitutional, and what not, not only for themselves in their own sphere of action, but for the Legislature and Executive also, in their spheres, would make the Judiciary a despotic branch. Nor does the opinion of the unconstitutionality, and consequent nullity of that law, which is confounding all vice and virtue, all truth and falsehood in the United States. The power to do that is fully possessed by the several State Legislatures. It was reserved to them, and was denied to the general government, by the Constitution, according to our construction of it. While we deny that Congress has a right to control the freedom of the press, we have ever asserted the right of the States, and their exclusive right, to do so. (To Mrs. John Adams, 1804. F. VIII., 311.)

SEIZURE.—Property wrongfully taken from a friend on a high sea is not thereby transferred to the captor. In whatever hands it is found it remains the property of those from whom it was taken; and any person possessed of it, private or public, has a right to restore it. If it comes to the hands of the Executive they may restore it. If into those of the Legislature (as by formal